



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

January 20, 2016

Richards Building Supply
c/o John DeRosche, President
7000 W. 63rd Street
Chicago, IL 60638

Re: Notice of Potential Liability and Invitation to Perform or Finance Proposed
Cleanup Activities for the Grant Street Fire Site, Bridgeport, CT

Dear Mr. DeRosche:

This letter serves to notify Richards Building Supply ("you") of potential liability regarding the Grant Street Fire Site in Bridgeport, CT ("Site"), as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), commonly known as the federal "Superfund" law. This letter also notifies you of planned and on-going removal activities at the Site which you are invited to perform or finance, and which you may be ordered to perform at a later date.

Previously, by letter dated August 20, 2015, EPA notified your division, Jim Waters Co., 15 Dewey Street, Bridgeport, CT, care of Manager Brian Stewart, of the aforementioned potential liability. That letter and information request is also included herein for reference (Enclosure 5). Having not received a response to the notice and request for information by the due date, we issued a Notice of Failure to Respond to CERCLA Section 104(e) Request for Information, dated December 1, 2015, also included herein (Enclosure 6). In response to correspondence recently received from General Counsel Christopher Cannonito, we are issuing this additional notice and request for information directly to Richards Building Supply.

NOTICE OF POTENTIAL LIABILITY

Under CERCLA, the United States Environmental Protection Agency ("EPA") is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment, *i.e.*, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that a release has occurred, and there is a threat of additional releases, at the Site located at 25 Grant Street, Bridgeport, Fairfield County, CT. The property is owned by 25 Grant Street, LLC and is fully described by the City of Bridgeport on MBLU 49/1804/3/K, and also identified on a deed

recorded at the Bridgeport Clerk's Office in Book 5205, Page 317.

Hazardous substances, pollutants, and contaminants involved in the release or threat of release of hazardous substances at the Site include, but are not limited to: volatile organic compounds, semi-volatile organic compounds, metals and asbestos-containing materials. EPA has spent public funds and is considering spending additional public funds to investigate and address the releases and/or threatened release(s) at the Site. Based on information presently available to EPA, as the operator/generator of the Site, EPA has determined that you are potentially liable under CERCLA for the cleanup of the Site, which you are invited to perform or finance and which you may be ordered to perform at a later date. Unless you or some other potentially responsible party ("PRP") or parties commit to properly performing or financing such actions, EPA will perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

EXPLANATION OF POTENTIAL LIABILITY

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, and other laws, potentially responsible parties ("PRPs") may be required to implement cleanup actions deemed necessary by EPA to protect public health, welfare, or the environment. PRPs may also be responsible for all costs incurred by the Government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to: expenditures for investigations, planning, response, disposal, oversight, and enforcement activities.

PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the Site to which the hazardous substances were delivered.

Based on information gathered during investigations of the Site, EPA believes that you are a PRP under Section 107(a) of CERCLA with respect to the Site. Specifically, EPA has reason to believe that you are an operator/generator of the Site, as a tenant at the time of the fire, and have potential liability for the Site. You are urged to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

INFORMATION REQUEST

EPA is further investigating the release or threat of release of hazardous substances, pollutants and contaminants at the Site. This investigation includes an inquiry into the identification, nature, source, and quantity of materials transported to or from the Site, generated, treated, stored, or disposed of at the Site. EPA is also seeking information concerning those persons responsible for the contamination at the Site and their ability to reimburse the government for its response costs.

Pursuant to the authority of Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), you are hereby requested to respond to the Information Request set forth in an enclosure to this letter (Enclosure 3). Compliance with the Information Request is mandatory and you have an affirmative duty to obtain the information requested, whether or not it is readily available. Failure to respond fully and truthfully to the Information Request, or to adequately justify such failure to respond, may result in an enforcement action by EPA pursuant to Section 104(e) of CERCLA which permits EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred dollars (\$37,500) for each day of continued noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

OUTLINE OF SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has taken the following response actions at the Site under the authority of the Superfund Program, so far: a Preliminary Assessment and Site Investigation ("PA/SI") in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site; and is in the process of conducting removal activities, as described further below.

Due to the presence of hazardous substances at the Site, and in light of other factors, EPA has determined that there is an imminent and substantial endangerment to public health, welfare, or the environment. In response, EPA is conducting and plans to continue to conduct the following immediate removal activities at the Site: 1) additional sampling, as needed, to determine the extent of contamination; 2) securing and/or removing building/structural materials to gain access to impacted areas; 3) identifying, characterizing, removing, and properly disposing of containerized chemicals and other incidental hazardous substances at an EPA-approved disposal facility; 4) removing soils, drums, containers, contaminated building materials, and non-containerized hazardous substances that may pose an imminent threat; 5) securing the Site with fencing to prevent unrestricted access; and 6) repairing any response-related damage.

INVITATION TO PERFORM SITE RESPONSE ACTIVITIES

Before EPA spends additional public funds to complete the removal action at the Site, EPA urges you to participate in removal activities or finance the removal activities outlined above. Any such work performed by you in your capacity as a PRP may be conducted pursuant to an administrative order and an EPA-approved work plan as authorized by Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Prior to final issuance of such an order, a draft order would be sent to you or your representative for review and comment. Enclosed is a copy of a summary of

a generic Scope of Work (Enclosure 1). This document should provide an understanding of the types of plans and activities typically required by such an Order.

Be advised that even if you do not indicate a willingness to perform or finance necessary response actions, EPA explicitly reserves any rights it may have to order you to undertake such actions under Section 106 of CERCLA, 42 U.S.C. § 9606. Failure to comply with a Section 106(a) administrative order may result in a fine of up to thirty-seven thousand five hundred dollars (\$37,500) per day under Section 106(b) or imposition of treble damages under Section 107(c) (3) of CERCLA. Further, you may be held liable under Section 107(a) for the cost of the response activities EPA performs at the Site and for any damages to natural resources. In addition, by virtue of Section 113 of CERCLA, 42 U.S.C. § 9613, other PRPs who agree to perform the necessary response action may seek contribution protection.

FINANCIAL CONCERNS/ABILITY TO PAY SETTLEMENTS

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a Site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Tina Hennessy or Cynthia Lewis at the addresses below for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements. You will be asked to fill out form(s) about your finances and to submit financial records including business federal and state income tax returns. If EPA concludes that you have a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

In the event you intend to or have already filed for dissolution or reorganization under bankruptcy laws, you are hereby requested to include EPA-Region 1 on any mailing or notice lists used in that proceeding. The United States reserves the right to file a proof of claim or application for reimbursement of administrative expenses in such a proceeding.

PRP RESPONSE AND EPA CONTACT

You should contact EPA within **ten (10) business days** after receipt of this letter to indicate your willingness to perform or finance the response activities outlined above. If EPA does not receive a response within that time, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response and that you have declined any involvement in performing response activities. Be advised, however, that liability under CERCLA is joint and several; therefore, each PRP is potentially liable for undertaking all response actions or reimbursing the Government for the entire amount of its response costs.

Also, please send a written response to the Information Request and provide all supporting financial documentation within thirty (30) days of your receipt of this letter to Tina

Hennessy at the address below.

Please provide the name, address, and telephone number of a designated contact for future communications. Your written response, including any technical comments or questions concerning the proposed response activities, should be directed to the EPA On-Scene Coordinator (“OSC”) or the Enforcement Coordinator (“EC”) for the Site:

Daniel Burgo, OSC
U.S. Environmental Protection Agency
Emergency Response & Removal Section 1 (OSRR02-2)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
TEL (617) 918-1052
FAX (617) 918-0052

Tina Hennessy, EC
U.S. Environmental Protection Agency
Emergency Response & Removal Section 1 (OSRR02-2)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
TEL (617) 918-1216
FAX (617) 918-0216

Legal questions and all communications from counsel should be directed to:

Cynthia Lewis, Senior Enforcement Counsel
U.S. Environmental Protection Agency
Office of Environmental Stewardship (OES04-3)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
TEL (617) 918-1889
FAX (617) 918-0889

DECISION NOT TO USE SPECIAL NOTICE

Under Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and the PRPs to conduct or finance response activities. The use of special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRPs are conducted.

Due to the exigencies posed by conditions present at the Site, removal activities must be conducted as expeditiously as possible. EPA has, therefore, decided not to invoke the Section 122(e) special notice procedures with respect to CERCLA removal actions at this Site. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will continue the response action as planned unless such discussions lead expeditiously to a settlement.

INFORMATION TO ASSIST YOU

EPA would like to encourage communication between you, other PRPs, and EPA concerning the Site. A Notice of Potential Liability has also been sent to: 25 Grant Street, LLC; Rowayton Trading Company, Inc.; and L.A. Barnaby and Sons, Inc. You or your attorney may wish to discuss the matters set forth in this letter with such parties or their attorneys.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA will establish an administrative record containing documents that serve as the basis of EPA's decision on the selection of a cleanup action for the Site. The Administrative Record files may be inspected and comments may be submitted by contacting the OSC for the Site, Daniel Burgo, at the above address.

The Administrative Record Files with corresponding index should be available for inspection at a repository near the Site within sixty (60) days of initiation of on-site removal activities, as well as the Superfund Records Center, U.S.E.P.A., 5 Post Office Square, Suite 100, Boston, MA 02109, (617) 918-1440.

SITE ACTIVITY OUTSIDE EPA ACTIONS

If you are already involved in discussions with state or other local authorities or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise or direct you to restrict or discontinue any such activities. However, you are advised to report the status of any such discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

CONSENT TO ACCESS

EPA has already received a Consent for Access, signed by Richards Building Supply, previously provided via Brian Steward of Jim Waters, Co. (Enclosure 2).

RESOURCES AND INFORMATION FOR SMALL BUSINESSES

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/swerosps/bf/sblrbra.htm> and review EPA guidance documents regarding these exemptions at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), which is also enclosed with this letter (Enclosure 4).

PURPOSE AND USE OF THIS NOTICE

The factual and legal discussions contained in this letter are intended solely to provide notice and information. Such discussions are not intended to be, and cannot be, relied upon as EPA's final position on any matter set forth herein.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact either Cynthia Lewis or Tina Hennessy at the telephone numbers referenced above.

EPA has already notified the State of Connecticut and the Natural Resources Trustees of EPA's intent to perform, or to enter into negotiations for the performance or financing of, response actions at the Site.

Thank you for your attention to this matter.

Sincerely,



Carol Tucker, Chief
Emergency Planning and Response Branch

Enclosures:

Enclosure 1- Generic Scope of Work

Enclosure 2- Previously Signed Consent to Access for Removal Action

Enclosure 3- Information Request pursuant to Section 104(e) of CERCLA

(note – time-sensitive, response required)

Enclosure 4- Small Business Regulatory Enforcement Fairness Act fact sheet

Enclosure 5 - Notice of Potential Liability and Invitation to Perform or Finance Proposed

Cleanup Activities for the Grant Street Fire Site, Bridgeport, CT, addressed to Jim Waters Corporation, dated August 20, 2015

Enclosure 6 - Notice of Failure to Respond to CERCLA Section 104(e) Request for Information, addressed to Jim Waters Corporation, dated December 1, 2015

cc: Ron Guzior, Vice President, Richards Building Supply
Christopher Cannonito, General Counsel, Richards Building Supply
Matt Williamson, CTDEEP
Dave Poynton, CTDEEP
Andrew Raddant, Regional Environmental Officer - U.S. DOI
Ken Finkelstein, National Oceanic & Atmospheric Administration - NOAA
Daniel Burgo, EPA On-Scene Coordinator – OSRR02-2
Tina Hennessy, EPA Enforcement Coordinator – OSRR02-2
Cynthia Lewis, EPA Senior Enforcement Counsel – OES04-3
Holly Inglis, EPA Records Center – OSRR01-5
Patti Ludwig, EPA CERCLIS Coordinator – OSRR01-5